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WILKINSON, BARKER, KNAUER & QUINN, LLP

Washington, DC
Frankfurt, Germany

2300 N Street, NW
Washington, DC 20037-1128

telephone: 202.783.4141
facsimile: 202.783.5851

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September 18, 1997

By Hand Delivery

William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Notification of *Ex Parte* Presentation in WT Docket No. 97-81

Dear Mr. Caton:

CellNet Data Systems, Inc. ("CellNet"), by its attorneys, hereby submits for filing a notification of an *ex parte* presentation in WT Docket No. 97-81. On September 16, 1997, Lawrence J. Movshin and Jeffrey S. Cohen of Wilkinson, Barker, Knauer & Quinn, LLP, and Stephen Richardson of CellNet met with John J. Borkowski, Derek R. Khlopin, Todd B. Lantor, and Scot Stone. At this meeting, we discussed CellNet's positions on the issues raised in the above-referenced docket, as already stated in CellNet's Comments and Reply Comments and reflected in the attached written presentation. Pursuant to Section 1.1206(b)(1) of the Commission's Rules, two copies of this presentation have been submitted to the Secretary.

Should you have any questions, please contact the undersigned.

Sincerely,

WILKINSON, BARKER, KNAUER & QUINN, LLP



By: Lawrence J. Movshin
Jeffrey S. Cohen

Enclosures

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Ex Parte Presentation

September 16, 1997

MAS Rulemaking Issues (WT Docket No. 97-81)

- MAINTAIN CURRENT ELIGIBILITY IN THE 928/952/956 AND 928/959 MHz BANDS.
- Auctions are not appropriate to this private radio service, even when some of the licensees may offer some private carrier-like services on these channels. Recent amendments to the auction authority now extends such authority to any spectrum licensees for which there are mutually exclusive applicants. Thus, the "subscriber-based" distinction no longer exists. Instead, Congress created an exemption for public safety radio services, including private internal radio services used by State and local governments and non-government entities (and including emergency road services provided by not-for-profit organizations, *i.e.* AAA) that are used to protect the safety of life, health or property and are not made commercially available to the public. Examples of the exemptions cited in the Conference Agreement include utilities, railroads, transit systems, private ambulance services, and volunteer fire departments. However, Congress did not intend this exemption to include internal radio services used by automobile manufacturers and oil companies to support emergency road services provided by those parties as part of the competitive marketing of their products. This new legislation strongly favors the type of licensing scheme suggested by CellNet for the 928/952/956 MHz band.
- If any limit is to be imposed on eligibility for the 928/952/956 band, private internal and true private carriage (*i.e.*, excluding services made available to the general public on a ubiquitous basis) should be permitted by licensees in this band.
- If any change in eligibility or permitted uses is adopted, then existing licenses/stations should be grandfathered, as proposed in the *NPRM*.
- A finder's preference program for MAS should be adopted (a change from current rules). This program would apply to unconstructed stations, and to licenses held by companies who constructed stations but are no longer in business. In addition, such a program could also apply to licensees who fail to maintain operations. To avoid situations where licenses lay fallow and unavailable, the Commission should re-initiate its practice of sending out forms to licensees at the end of a license term requiring construction certification, and in the absence of a timely response, the channels should be immediately recaptured.
- Site-by-site licensing should be retained, and geographic area licensing should be rejected (*status quo* position). However, some type of geographic area licensing flexibility should be incorporated into the rules to allow expansion anywhere within the area defined by the center points of operation of adjacent service areas, and/or defining by

means of maximum power flux density or field strength the power limits at the edges of service contours.

- Mobile remotes should be prohibited (status quo position). This would ensure that MAS does not become a CMRS-type of service, and will remove any significant commercial value from the spectrum. This should reduce the incentive to use auctions as the preferred licensing method.
- Point-to-point operations should only be allowed in the MAS service on an ancillary (and secondary) basis to primary point-to-multipoint operations of the licensee (status quo position).
- Station modification flexibility should be developed (a change from current rules), based on designated criteria such as how service area boundaries should be defined, power limits, etc.